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9 Attorneys for Defendants Polo Ralph Lauren
10 Corporation; Polo Retail, LLC; Polo Ralph Lauren Corporation,
doing business in California as Polo Retail Corp.; and Fashions
11 Outlet of America, Inc.

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
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16 ANN OTSUKA, an individual; JANIS
17 KEEFE, an individual; CORINNE PHIPPS,
an individual; and JUSTIN KISER, an
18 individual; and on behalf of all other similarly
situated,

Plaintiff(s),

19 v.

20 POLO RALPH LAUREN CORPORATION,
21 a Delaware Corporation; POLO RETAIL,
LLC, a Delaware Corporation; POLO
22 RALPH LAUREN CORPORATION, a
Delaware Corporation, doing business in
23 California as POLO RETAIL CORP;
FASHIONS OUTLET OF AMERICA, INC.,
24 a Delaware Corporation and DOES 1-500,
inclusive,

25 Defendant(s).
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Case No. C07-02780 SI

**DECLARATION OF WILLIAM J. GOINES
IN SUPPORT OF MOTION TO DISMISS
ANN OTSUKA AS PLAINTIFF**

1 I, William J. Goines, declare:

2 1. I am an attorney at law duly licensed to practice in the State of California and before
3 this Court, and am a shareholder of Greenberg Traurig, LLP, attorneys of record for Defendants Polo
4 Ralph Lauren Corporation; Polo Retail, LLC; Fashions Outlet of America, Inc.; and Polo Retail
5 Corporation (hereafter "Polo" or "Defendants").

6 2. I have personal knowledge of the matters set forth below except as to those which are
7 stated on information and belief and, as to those, I am informed and believe that they are true. If
8 called as a witness, I could and would competently testify to the following facts in a court of law.

9 3. On March 31, 2008 Defendant noticed the deposition of Ann Otsuka, a proposed class
10 representative in the above entitled action, for April 30, 2008. A true and correct copy of this notice
11 is attached hereto as Exhibit A.

12 4. On April 17, 2008 I emailed counsel and asked if Ms. Otsuka's deposition could be
13 rescheduled for the week after April 30, 2008. On April 21, 2008 counsel for Ms. Otsuka indicated
14 that he was agreeable to rescheduling the deposition for the following week and would provide
15 further dates. After several follow up emails on April 28, 2008 counsel for Ms. Otsuka indicated that
16 he had not heard back from his client and so could not provide another date for Ms. Otsuka's
17 deposition. I heard nothing further counsel from counsel for Plaintiff after April 28 despite the fact
18 that counsel had agreed to reschedule Ms. Otsuka for the week of May 5-9. A true and correct copy
19 of the emails regarding Ms. Otsuka's deposition is attached as Exhibit B.

20 5 On May 1, 2008, Defendant renoticed Ms. Otsuka's deposition for May 15, 2008 at
21 9:30 am. An Amended Notice of Taking Deposition of Plaintiff Ann Otsuka was served by mail and
22 by fax on the Law Offices of Patrick Kitchen and the Law Offices of Daniel Feder. A true and
23 correct copy of the Amended Notice is attached as Exhibit C.

24 6. On May 14, 2008 at 1:30 pm, Mr. Kim emailed and stated "We will not be appearing
25 at Ann Otsuka's deposition tomorrow. We have not been able to reach Ms. Otsuka yet, although we
26 are still trying." A true and correct copy of this email is attached in the deposition scheduling
27 correspondence in Exhibit B. There was no appearance on May 15 by Ms. Otsuka, Mr. Kitchen or
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1 Mr. Feder, and this non-appearance was noted on the record. A true and correct copy of the
2 Statement of the Record RE: Non-Appearance of Ann Otsuka is attached as Exhibit D.

3 7. On May 19, 2008, after Ms. Otsuka failed to appear for her deposition, I emailed
4 counsel for Ms. Otsuka requesting proposed dates for her deposition by the close of business, or that
5 Defendant would move to dismiss Ms. Otsuka as a plaintiff and proposed class representative. As of
6 the date of this letter, I have not received a response from Mr. Kim.

7 8. My hourly rate is \$555, and I spent an hour to prepare for and note the non-
8 appearance of Ms. Otsuka at her deposition. The hourly rate of my associate who took three hours to
9 draft this motion is \$360 per hour. Accordingly, combined expenses to appear at deposition and file
10 this motion are \$1635.

11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct. Executed this 27th day of May, 2008.

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15 William J. Goines
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